

EXHIBIT 15

XO6 UWY CV18-6046436-S : SUPERIOR COURT
ERICA LAFFERTY, ET AL : JUDICIAL DISTRICT OF WATERBURY
V : AT WATERBURY, CONNECTICUT
ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

XO6 UWY CV18-6046437-S : SUPERIOR COURT
WILLIAM SHERLACH, ET AL : JUDICIAL DISTRICT OF WATERBURY
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B E F O R E:

THE HONORABLE BARBARA N. BELLIS, JUDGE

A P P E A R A N C E S:

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Court Monitor
400 Grand Street
Waterbury, Connecticut 06702

1 THE COURT: All right. We're on the record in
2 the Lafferty versus Jones, three consolidated cases.
3 The Waterbury docket number for the Lafferty matter is
4 18-6046436. For the record, this is Judge Bellis. I
5 understand that Mr. Ferraro is contacting Attorney
6 Cerame to see if he is intending to appear.

7 In the meantime, I'll just give everyone the
8 general reminders that I say every time. Please mute
9 your device. As you know, I do the same thing. I
10 sometimes forget to unmute it, but it's just a lot
11 easier for the court reporter feedback-wise if
12 everyone has their device muted, unless they're
13 addressing the Court. And, also, just to help the
14 court reporter out, please just restate your name each
15 time you readdress the Court.

16 So, Mr. Ferraro, were you able to get through to
17 Attorney Cerame? I'm not sure he wants to attend.
18 Technically, this doesn't involve him. Although
19 certainly we would wait for him.

20 COURT OFFICER: Yes, your Honor. I did get in
21 touch with him. He said he would be on in a couple of
22 minutes. He was a little confused because I think
23 there was also a deposition scheduled for right now in
24 the case. He wasn't sure what was going on. He did
25 say he had another matter at eleven o'clock that he
26 would bring up with you. If he doesn't need to be
27 here, he may just actually leave there at eleven

1 o'clock or slightly before then.

2 THE COURT: All right. So we can wait for him to
3 sign in.

4 In the meantime, starting with plaintiff's
5 counsel, I'll just have counsel identify themselves
6 for the record, please. And good morning to everyone.

7 ATTY. MATTEI: Good morning, your Honor. Chris
8 Mattei on behalf of the plaintiffs, joined today by my
9 colleagues, Alinor Sterling and Matthew Blumenthal.

10 THE COURT: For the Jones defendants.

11 ATTY. WOLMAN: Good morning, your Honor. Jay
12 Wolman of Randazza Legal Group for Mr. Jones, Free
13 Speech Systems, LLC, Infowars, LLC, Infowars Health,
14 LLC and Prison Planet TV, LLC. I'm joined by my
15 colleague, Attorney Cameron Atkinson of Pattis & Smith
16 who represents the LLC defendants.

17 Before we begin, your Honor, I'd like to
18 apologize for the missed redaction in the motion for
19 protective order. That was -- we filed a document
20 from a Texas public filing into here, and it just
21 didn't click that the unredacted filing there would
22 need to be redacted here.

23 THE COURT: It's not a problem. I actually think
24 I caught it within minutes, and that does happen with
25 more frequency than you'd like. So I did seal it.
26 And, obviously, just get that redacted document in
27 right away.

1 ATTY. WOLMAN: It was the date of birth, right,
2 your Honor?

3 THE COURT: Yes. Well, to be honest, Mr. Wolman,
4 I saw that and I just immediately sealed. So I would
5 suggest you have your staff sort of scour through the
6 --

7 ATTY. WOLMAN: I want to make sure that I caught
8 whatever your Honor caught.

9 THE COURT: Right. And then I stopped there.
10 Just look at four seven and match it up. It may very
11 well be the only thing.

12 ATTY. WOLMAN: I'm not used to dates of birth
13 being on an affidavit and just for a generic matter.
14 Apparently that's what they do in Texas.

15 THE COURT: Sure.

16 I suppose while we're waiting for Attorney Cerame
17 to log in, I was going to start off by asking if
18 anyone had any matters that were ready to be
19 adjudicated or needed a briefing schedule. So,
20 Attorney Wolman, since you have the floor, why don't I
21 start with you? Since we last met, anything that you
22 filed that either needs to be adjudicated that's
23 ready, in your opinion, or needs a briefing schedule?

24 ATTY. WOLMAN: Just so your Honor is aware, we're
25 going to be filing a response on the motions for
26 commissions to the social media entities today. That
27 is our due date. That will be filed at some point

1 today. And I know there are some motions to seal that
2 are being adjudicated on Wednesday. And we'll be
3 filing our responses before then. Otherwise, with the
4 exception of this motion for protective order in which
5 your Honor has now ruled, at least there's nothing
6 since November 5th, I believe.

7 THE COURT: Okay. Same questions to plaintiffs.
8 Anything that in your mind since we last met is either
9 ready to be adjudicated or needs a briefing schedule,
10 anything that you filed?

11 ATTY. MATTEI: Not that I'm aware of, your Honor.

12 THE COURT: I suppose we can -- I'm not sure if
13 Attorney Cerame was even near a computer. And this
14 argument doesn't involve him. So I'm comfortable
15 starting it, and we can stop when I see him joining
16 and I can just tell him what's transpired. Since I
17 always order a transcript, he'll have that available,
18 unless somebody feels strongly the other way. I just
19 don't know if it could be half an hour or twenty
20 minutes. I just don't want you wasting your time.
21 Does anybody have -- oh, Mr. Ferraro?

22 COURT OFFICER: Yes, your Honor. Attorney Cerame
23 just emailed me that he can't find the link, so I just
24 forwarded it to him.

25 THE COURT: It sounds like it will just be matter
26 of minutes, so we'll wait.

27 One thing I did want to mention, I know we're

1 going to address the trial balance issue today. But I
2 also in re-reviewing the materials, I would like both
3 sides to also address the entities that they believe
4 sanctions should or should not enter against. Because
5 when I read the filings, it looks like the plaintiffs
6 are asking for sanctions as to all the defendants. Of
7 course, the defendants are arguing sanctions should
8 not enter. But I'd like to hear argument more on
9 where sanctions are or are not appropriate. If you
10 would address that, please.

11 So we'll just stand by then and wait for Attorney
12 Cerame.

13 ATTY. CERAME: Good morning. This is Mario
14 Cerame. I'm sorry I'm having some technical problems
15 here.

16 THE COURT: That's okay, Attorney Cerame. Are
17 you able to hear me okay? This is Judge Bellis.

18 ATTY. CERAME: Yes, your Honor. I can hear you
19 perfectly well. I apologize once again.

20 THE COURT: It's not a problem at all. No
21 worries. I don't see a video on you. I'm okay with
22 that. I just want to make sure you can hear and see
23 what you need to hear and see.

24 I also wanted to tell you while we were waiting
25 for you to join, what we did is, I asked counsel to
26 address which entities, if any, sanctions should enter
27 against with respect to the Jones defendants. I also

1 had them go over what, since our last status
2 conference, was ready to be adjudicated or needs a
3 briefing schedule, which was nothing new. So what I'd
4 like to know from you, is there anything that you have
5 filed since we last spoke that is either ready to be
6 adjudicated or needs a briefing schedule?

7 ATTY. CERAME: No, your Honor.

8 THE COURT: I didn't think so, but I didn't want
9 to leave you out of the discussions. So I'll ask that
10 you mute your device, as well, during the argument
11 which I'm going to do, as well.

12 I do want to remind everybody that we do have the
13 motions to seal. There's quite a few of them down for
14 Wednesday. So that will go forward. The show cause
15 hearing, as you've probably seen from the order, I
16 continued to our next status conference so that we can
17 get the sealing issues addressed. So at this point, I
18 believe the only thing we have on Wednesday are the
19 many motions to seal that need to be adjudicated.

20 So I am going to mute, and I will turn the floor
21 over to Attorney Mattei. And then Attorney Wolman
22 will be given an opportunity to respond. Whenever
23 you're ready, please.

24 ATTY. MATTEI: Thank you. And good morning
25 again, your Honor.

26 I wanted to mention at the outset, because it's
27 not clear from the correspondence we've received from

1 the Jones defendants, whether they have notified the
2 Court that on Friday they filed an application to file
3 a public interest appeal with the Connecticut Supreme
4 Court based on your denial of their motion to recuse.
5 So I just wanted to make sure that the Court was aware
6 of that in the event it was not aware of that and give
7 the Court an opportunity to do anything it felt it
8 needed to do there.

9 THE COURT: I was not aware, but thank you. We
10 can proceed.

11 ATTY. MATTEI: Your Honor, if it's okay, I'll
12 take up the trial balance argument first and then
13 address the issue that the Court raised as to which
14 defendant sanctions should enter against.

15 So we're here for, I think, the third argument
16 relating to the plaintiff's motion for default and
17 sanctions. And today I'm going to address the issue
18 of the trial balances. The trial balances, it's just
19 an accounting term for balance sheets, as the Court is
20 aware. We requested that the Jones defendants produce
21 trial balances and subsidiary ledgers through their
22 managing agent, Melinda Flores. This was back in the
23 fall of last year.

24 On the eve of the Court deciding whether or not
25 Ms. Flores was a managing agent and, therefore,
26 subject to deposition and production on notice, the
27 Jones defendant removed the case to federal court. It

1 came back in the spring of this year. And we again
2 sought compliance from the Jones defendants and
3 production of Ms. Flores.

4 The Court ordered that Ms. Flores produce
5 subsidiary ledgers and trial balances on behalf of
6 Free Speech Systems at her deposition. The Jones
7 defendants sought an emergency protective order
8 preventing that deposition from going forward. The
9 Court then ordered again the documents to be produced
10 by May 14, 2021 and warned that failure to comply with
11 its order might result in sanctions.

12 On May 14 of 2021, the defense counsel staff
13 transmitted documents purporting to be trial balances
14 to the plaintiffs and advised the plaintiffs that they
15 were being produced from Melinda Flores, Free Speech
16 Systems' accounting manager, and incorporating the
17 subsidiary ledgers. When we received those balance
18 sheets, we had every reason to believe that Ms. Flores
19 had produced them. She had been identified by Free
20 Speech Systems in its own internal documents as their
21 accounting manager. She is the top person within the
22 organization with accounting responsibilities at Free
23 Speech Systems. For these reasons, we specifically
24 directed our requests to Ms. Flores because we
25 believed she was best positioned not only to produce
26 the documents, but to testify about their contents.

27 So when we received that transmittal, we prepared

1 to depose Ms. Flores on May 27th, believing that the
2 documents they had produced were the documents Ms.
3 Flores had generated. We had no idea that the
4 documents they had produced were, in fact, created by
5 an outside accountant they had retained in this
6 litigation named Robert Roe. We were completely
7 unaware as to the basis for them indicating that the
8 trial balances contained subsidiary ledgers. So we
9 prepared to question Ms. Flores about these documents
10 believing that they were the ones that she had
11 produced.

12 When we commenced that deposition and presented
13 those documents to Ms. Flores, it was clear that she
14 believed them to be the trial balances that she had
15 produced. She testified that, in fact, they were.
16 The only person during that deposition who was aware
17 that the trial balances -- oh, I see Attorney Ferraro
18 trying to get my attention.

19 COURT OFFICER: I'm sorry, Attorney Mattei. Your
20 Honor, I just got the email from the Connecticut
21 Public Radio people we didn't address whether or not
22 they could record this morning, as we have in the
23 past.

24 THE COURT: Okay. That is correct. Was that
25 request conveyed to counsel?

26 COURT OFFICER: Yes, your Honor.

27 THE COURT: Did any counsel have any objection to

1 that? If you do, just state --

2 ATTY. MATTEI: No, your Honor, we did not.

3 ATTY. WOLMAN: We do not have an objection, your
4 Honor.

5 ATTY. CERAME: No objection.

6 THE COURT: So the recording can begin.

7 COURT OFFICER: Thank you, your Honor. I'm
8 sorry.

9 ATTY. MATTEI: And, your Honor, I wanted to
10 mention that the document identifying Ms. Flores as
11 the accounting manager for Free Speech Systems is, I
12 think, attached as Exhibit I to our original motion
13 for sanctions relating to this.

14 When I commenced to question Ms. Flores about the
15 trial balances, she testified that she believed that
16 the trial balances that had been produced by us were
17 the ones that she had generated which she testified
18 she generated with ease.

19 As of today, we still do not have the trial
20 balances that she produced. Even today we don't. And
21 the only person during that deposition who was aware
22 that the trial balances we were using, believing Ms.
23 Flores had produced, was defense counsel. And defense
24 counsel said nothing during the deposition at any time
25 to correct Ms. Flores' testimony that the trial
26 balances were the ones she had generated.

27 She also testified, as you know, that she had not

1 been asked to produce subsidiary ledgers and did not
2 produce subsidiary ledgers even though she understood
3 how and even though she acknowledged that subsidiary
4 ledgers are necessary to support the balances
5 contained in the balance sheets.

6 The one thing we did know about these trial
7 balances when they were produced was that several of
8 them did not balance. The whole purpose of the
9 balance sheet is to show credits and debits balancing.
10 And several of them did not. So that at least raised
11 a question in our mind about the integrity of the
12 documents that had been produced and whether they, in
13 fact, accurately reflected the underlying finances of
14 Free Speech Systems.

15 When we asked Ms. Flores about them, she wasn't
16 able to explain why there were imbalances in the trial
17 balances. This is what prompted Free Speech Systems
18 to later produce what they I guess described as
19 additional trial balances from Mr. Roe because they
20 knew that they were going to have to explain why there
21 were imbalances in the trial balances and they knew
22 that their own accounting manager could not. So
23 that's when they disclosed the documents that they had
24 produced were, in fact, created by Mr. Roe.

25 Mr. Roe's explanation for what he did with the
26 trial balances that Ms. Flores created were incomplete
27 and nonsensical. He essentially admitted initially

1 that there had only been a few formatting errors.
2 That's the initial explanation we received, that there
3 were formatting errors in the trial balances he
4 produced.

5 As time went on and we had to litigate whether or
6 not Free Speech Systems had subsidiary ledgers and
7 then whether they had to produce them, we deposed the
8 corporate designee for all of the corporate entities
9 of the Jones defendants. That corporate designee,
10 Michael Zimmerman, testified specifically that
11 Infowars, LLC, one of the corporate defendants,
12 participated in no financial transactions. He
13 testified that he minimized the extent to which there
14 were any financial transactions between the other
15 codefendants and Free Speech Systems. And we had no
16 subsidiary ledgers at that point to use in our
17 examination of Mr. Zimmerman, and we only had
18 inaccurate trial balances.

19 They later produced subsidiary ledgers at this
20 Court's order after the Court found that it was
21 sanctionable for them not to have done so originally
22 and after the Court discredited Mr. Roe's initial
23 affidavit as to whether or not subsidiary ledgers
24 existed at all.

25 When we reviewed the subsidiary ledgers, it
26 became obvious that Mr. Roe had not simply had some
27 formatting errors in his trial balances, but that he

1 had wholly misrepresented Free Speech Systems'
2 finances in those trial balances. And the only way we
3 were able to determine that is because the subsidiary
4 ledgers had been produced at this Court's order. If
5 the Court had not seen through their effort to
6 withhold and conceal their subsidiary ledgers, there
7 is no way we would have understood the extent of Mr.
8 Roe's manipulations and, more importantly, the
9 underlying finances that are at issue in this case.

10 Here's what we now know Mr. Roe did with Ms.
11 Flores' trial balances, which we still don't have: He
12 deleted accounts. He simply deleted accounts that are
13 in active use and that are material to Free Speech
14 Systems' finances. And we lay this out both in our
15 reply, your Honor, and in our sur-surreply. Mr. Roe
16 does not dispute it. He acknowledges that there are
17 accounts in active use at Free Speech Systems that he
18 simply not include in his trial balances that would
19 have been included in Ms. Flores' trial balances
20 because she testified that she ran them directly from
21 Quick Books. Those accounts that he deleted prove
22 financial relationships between the codefendants.

23 THE COURT: Can you back up a second, Attorney
24 Mattei? Because I might have confused myself. With
25 respect to the trial balances and the subsidiary
26 ledgers, you never got the trial balances that Ms. --
27 your position is you never got the trial balances that

1 Ms. Flores ran, correct?

2 ATTY. MATTEI: Correct.

3 THE COURT: The subsidiary ledgers, what did you
4 end up getting with respect to the subsidiary ledgers?

5 ATTY. MATTEI: On August 24th, I believe, your
6 Honor, after the Court found that subsidiary ledgers
7 did exist and that Mr. Roe's affidavit was not
8 credible, they produced to us what they described as
9 supposed subsidiary ledgers, which contain -- which
10 Mr. Roe in his affidavits describe as transaction
11 reports. But essentially what they are are
12 spreadsheets showing account activity within the
13 general accounts listed on the trial balances that Mr.
14 Roe produced. We -- it is not clear whether they are,
15 in fact, subsidiary ledgers because subsidiary ledgers
16 contain opening balances, opening account balances.
17 These do not, which Mr. Roe explained I think in his
18 second affidavit, but at least they are or purport to
19 be transaction detail reports for the years in
20 question.

21 And so what's included -- and, your Honor, I
22 think we list the accounts that are contained in the
23 subsidiary ledgers and Mr. Campanelli's affidavits and
24 in our pleadings. We certainly list all of the ones
25 that were deleted from Mr. Roe's trial balances.

26 So I'm going to continue to describe these as
27 subsidiary ledgers because they were produced

1 following the Court's finding that subsidiary ledgers
2 exist and that they had been withheld. So these
3 subsidiary ledgers --

4 I'm sorry, your Honor. Also, going back to your
5 first question there, Ms. Flores testified that she
6 ran trial balances in accordance with what she
7 believed her obligations to be. She testified that
8 she was informed by defense counsel that they had gone
9 to the appropriate people and she believed, when I
10 presented her with the trial balances, that they were
11 the ones that she ran. What's clear is we do not
12 have -- whatever trial balances she ran we do not have
13 and we have never had because Mr. Roe testified that
14 whatever he received from Ms. Flores he then
15 manipulated -- I'm sorry -- he attested in his
16 affidavit.

17 Among his manipulations -- and this is getting
18 back to where I left off -- were the deletion of these
19 accounts. We list them in our pleadings, your Honor.
20 These are accounts showing relationships between the
21 codefendants. They are accounts showing Mr. Jones'
22 own draw from Free Speech Systems and, therefore, his
23 own personal incentive in the publications that he
24 makes. They are accounts that show the relationship
25 between Mr. Jones' primary revenue generating entity,
26 which is the supplement business he runs through the
27 Infowars store and Free Speech Systems. They are

1 accounts that are crucial to understanding Free Speech
2 Systems' finances and Mr. Roe deleted them. They
3 simply did not exist on his trial balances.

4 He also consolidated certain accounts into one
5 new account that had no previous existence. Those are
6 four accounts which are described as cost of goods
7 sold. Among the accounts he consolidated and which we
8 would have never known existed was a third party
9 promotion account showing that Free Speech Systems
10 pays others to promote its products. He created an
11 entirely new account, an entirely new name for it and
12 consolidated four accounts into it. This is true for
13 every year for which we have trial balances that he
14 created.

15 He also -- there are also wild discrepancies
16 which we describe between dozens of accounts listed in
17 his trial balances and what the subsidiary ledgers
18 show. He attempts to explain some of this by saying,
19 well, there aren't opening account balances for some
20 number of those accounts. He doesn't describe which
21 ones they are, and fails entirely to even attempt to
22 explain the discrepancies between the trial balances
23 and the subsidiary ledgers with respect to other
24 accounts.

25 So what's clear is that the Jones defendants
26 produced documents that do not accurately reflect
27 their underlying finances, that they did it

1 purposefully in order to prevent the plaintiffs from
2 conducting meaningful discovery about their finances.
3 That they didn't disclose it until they were caught.
4 And that now, according to Mr. Campanelli, our expert
5 accountant, there's no reliance he would be able to
6 place on any of the financial documents they've
7 provided because of the discrepancies that are
8 unexplained and because of the deleted accounts that
9 Mr. Roe offers no explanation as to why they were
10 deleted, but in our mind, given the nature of the
11 accounts, it's obvious. And this was all orchestrated
12 by the Jones defendants, frankly, without Ms. Flores'
13 knowledge, who is the managing agent they produced to
14 testify about this and without our knowledge.

15 The reason I think the Court can infer that they
16 did this is related both to the financial records that
17 they wrongfully withheld and fabricated and the
18 analytics information that we saw. What we have
19 attempted to discover here is information showing the
20 relationship between their publication platforms,
21 their websites and what they publish and their
22 revenue. And on both scores, the Jones defendants
23 have withheld information, lied about the information
24 they do have with respect to their financial
25 information. They've produced fabricated documents
26 that have prevented us entirely from relying on what
27 it is that they've produced and what they've said they

1 have.

2 All of this, your Honor, has happened over the
3 course of years, has been deliberate and willful and
4 has prejudiced us, our ability to prove our claims,
5 all of our claims, but including claims under CUTPA.
6 And we believe, given the entire course of conduct,
7 was a deliberate and willful strategy chosen by the
8 Jones defendants to basically deny the authority of
9 the Court to order them to produce this information.
10 And then when the Court made clear that it was
11 discoverable, to do everything that they could to hide
12 it. And now what they've left us with is a batch of
13 financial records that are totally unreliable,
14 misrepresentative of their underlying finances and
15 analytics production that is entirely incomplete and
16 does nothing to tell the story that we believe had
17 they provided us with evidence that's solely within
18 their possession would prove the relationship between
19 Mr. Jones' multiyear campaign to spread the lie that
20 Sandy Hook didn't happen and the expansion of his
21 audience and the expansion of his revenue.

22 So with that, I don't know if you'd like me to
23 now address the issue of which defendant sanctions
24 should enter against or whether you want counsel to
25 respond to the substance of the trial balance
26 argument.

27 THE COURT: I think you can address it now,

1 please.

2 ATTY. MATTEI: Your Honor, in their sworn
3 discovery responses, the Jones defendants have
4 attested that Mr. Jones is the sole controlling
5 authority of all of the corporate entities.
6 Deposition testimony has confirmed that from Mr. Dew,
7 from Mr. Zimmerman, from others. It's not
8 meaningfully contested that Mr. Jones has the
9 authority and the ability to produce the information
10 the Court has ordered him to produce, to instruct
11 others to produce it and because the information that
12 we've sought, especially on the analytics side --
13 well, on both sides -- pertains to all defendants. So
14 although -- so it appears to us based on everything
15 that we've received that Infowars Health, LLC, Prison
16 Planet TV, LLC, Infowars, LLC, they are all controlled
17 by Mr. Jones and by their relationship with Free
18 Speech Systems -- I'm sorry, your Honor. I just have
19 to click out of what I got here.

20 So they have their corporate designees for Free
21 Speech -- I'm sorry. The corporate designees for
22 Prison Planet TV, LLC, Infowars Health, LLC and
23 Infowars, LLC have all testified essentially that they
24 have a limited purpose and their purpose is solely in
25 relationship to Free Speech Systems and to Mr. Jones.

26 So sanctions as to all defendants should enter
27 for this misconduct with respect to the analytics.

1 Analytics have never been produced for Prison Planet
2 dot net, the website. So we believe that the
3 analytics requests which were directed to all
4 defendants should apply to their own failure to
5 produce the analytics. The same with financial
6 information.

7 But what's clear is that Mr. Jones is the one,
8 Mr. Jones personally is the one who has the authority
9 to require that his companies produce the information
10 they've been required to produce. He sits at the top
11 of all of them. And he is the one, we believe, who
12 has directed this willful misconduct throughout the
13 case.

14 So if the Court would like additional briefing on
15 that, I think what we've relied upon mainly are their
16 own responses in discovery that Mr. Jones controls and
17 has full authority as to --

18 THE COURT: Just as an example, what discovery
19 request has been directed against Infowars Health,
20 LLC, just as an example, that they have failed to
21 fully and fairly comply with?

22 ATTY. MATTEI: Well, your Honor, I believe that
23 we directed all of our discovery requests to all of
24 the defendants. And what we have typically received,
25 and I think the Court has noted previously that the
26 Jones defendants have not complied with all of their
27 compliance obligations when it comes to filing notices

1 of compliance and how they transmit discovery, but
2 what we have received have been discovery responses on
3 behalf of all the defendants. So they do not
4 distinguish between what's being produced on behalf of
5 Prison Planet, what's being produced on behalf of
6 Infowars Health, what's being produced on behalf of
7 Infowars, LLC. And so that's my understanding as to
8 how discovery has went. So it's very difficult for me
9 to sit here and say what has been produced by one
10 defendant as opposed to others. The course of conduct
11 in this case has essentially been that all defendants
12 -- responses are made on behalf of all defendants.

13 THE COURT: Anything further?

14 ATTY. MATTEI: No, Judge. Thank you.

15 THE COURT: Attorney Wolman, I assume you're
16 arguing for the defendants?

17 ATTY. WOLMAN: Yes, your Honor. Thank you.

18 THE COURT: Whenever you're ready.

19 ATTY. WOLMAN: I would start with a point Mr.
20 Mattei made at the beginning of his argument which
21 relates to one he just lied about at the end of his
22 argument. That the responses were purportedly on
23 behalf of all defendants. They were not. Neither
24 were responses from Ms. Flores with respect to the
25 requests directed to her produced by her. We
26 specifically set forth that they were being produced
27 by Free Speech Systems, LLC in the written response

1 signed by me, not some cover email sent by a
2 paralegal, but the actual signed one by counsel. And
3 we said this last time. Yet Mr. Mattei repeated this
4 misrepresentation to the Court here.

5 What happened and as Ms. Flores testified, which
6 Mr. Mattei overlooks, is that on page 93 of her
7 deposition, she says -- she testifies that she sent --

8 And who did you send this to at Acuity?

9 Answer: Bob Roe.

10 Did Mr. Roe acknowledge that he received them?

11 Answer: Yes.

12 Question: And what's your understanding of what
13 Mr. Roe did with these trial balances when you sent
14 them to him?

15 Answer: I don't.

16 She clearly set forth to them that once it left
17 her hands and went through an accountant. This wasn't
18 just some random employee or anything. This is why we
19 have certified public accountants, your Honor. A
20 bookkeeper, which is what Ms. Flores is, generated,
21 took the raw data out of Quick Books and gave it to
22 the accountant to prepare trial balances because that
23 is what accountants do. Bookkeepers do not prepare
24 trial balances. I don't know where they get this
25 from, but we had an accountant do this, and there
26 should be no reason why any sanctions are warranted
27 against Free Speech Systems at the outset. If an

1 accountant made a mistake, you know, you cross-examine
2 him on the stand. You correct that. You take
3 discovery, whatever it is. But there's no reason that
4 Free Speech Systems should be responsible for an
5 accountant's error when they relied on what that
6 accountant did.

7 And other than a formatting error in the initial
8 production, which was caught by Mr. Mattei -- thank
9 you -- where a couple of lines were accidentally
10 hidden, so it was fixed and then produced again, we're
11 not aware of anything that Mr. Roe did wrong. He
12 combined accounts because the way Quick Books data had
13 been organized was misleading and misrepresentative
14 and he did not want to present misleading and
15 misrepresentative data. He fixed the names of
16 accounts because when accounts had been changed in
17 their names over the years, then that needed to be
18 fixed retroactively because when you print today, it
19 doesn't tell you what it actually was years ago if
20 you've renamed it in the interim.

21 Mr. Roe may disagree with Mr. Campanelli. Mr.
22 Campanelli may disagree with Mr. Roe. That's what
23 competing experts are for. This is not a sanctions
24 issue. This is a way to try to circumvent, trying to
25 prevail on the merits, your Honor. The plaintiffs
26 cannot circumvent the merits. They are trying to find
27 a needle in a haystack where there is no needle. This

1 is a classic fishing expedition.

2 Your Honor allowed this over our objection, but
3 what we're talking about here is a handful of times
4 Mr. Jones or a guest on Infowars and an article was
5 published and made appear. Mr. Jones is on air six
6 days a week. Over the five, six years, you're talking
7 about thousands of hours, tens of thousands of hours
8 of which you have minimal articles, minimal interviews
9 being about the Sandy Hook incident. This is not
10 something that would happen where we'd be looking at
11 this -- if the New York Times published a handful of
12 articles on Sandy Hook, we would not be hunting and
13 pecking through their finances.

14 What we have here is they asked for trial
15 balances and they were given trial balances. What
16 they're complaining about is that they didn't get
17 misleading documents. We find that ridiculous, your
18 Honor, and offensive to the administration of justice.
19 They're complaining they didn't get misleading
20 documents. We had an accountant prepare the correct
21 documents, as he set forth. And if he got something
22 wrong, well, that should be on him. Accountants can
23 commit malpractice, but we have no reason to believe
24 that he did so. Did he do something a little
25 differently than another accountant may have? Sure.
26 But attorneys do things differently than other
27 attorneys. Doctors do things than other doctors that

1 don't constitute malpractice. All professionals do
2 things a little different than their compatriots. But
3 they've pointed to no violation of any accounting
4 standard or any error.

5 The plaintiffs need to examine Mr. Roe, take his
6 expert deposition. They can attempt that certainly.
7 But this is not sanctionable conduct, your Honor.
8 There has been no prejudice. They've pointed to
9 nothing that even suggests any prejudice. These
10 accounts that were combined with respect to transfer
11 of payments between entities, well, they already knew
12 that there was a relationship. That's never been
13 hidden.

14 The corporate representative for Infowars Health
15 said that Infowars Health collected advertising
16 revenue from a third party when something called
17 Youngevity was advertised. A Prison Planet TV
18 corporate representative testified that it collected
19 subscription fees on behalf of Free Speech Systems
20 basically acting as a payment processor, which, by the
21 way, your Honor, trying not to merge arguments, but
22 Mr. Mattei mentioned that, well, they received no
23 analytics for Burning Prison Planet dot net. Well,
24 that's not Prison Planet TV, LLC's website. It's
25 owned and operated by Free Speech Systems. He's
26 misrepresenting things here in order to try and get in
27 one fell swoop what he's not entitled to.

1 THE COURT: Attorney Wolman, you're telling me
2 that Free Speech Systems owns and operates Prison
3 Planet TV website. Is it your representation that
4 those analytics were all produced, sir?

5 ATTY. WOLMAN: I don't believe analytics on
6 behalf of that website were generated and produced,
7 no, your Honor. I don't know if there are analytics,
8 and I have not been made aware that particular website
9 had analytics from Google.

10 THE COURT: My recollection when I originally way
11 back when had to rule on the discovery objections
12 relating, I thought that request was made. Is it your
13 position that you weren't obligated or you just don't
14 -- because if your position is that you weren't
15 obligated to do so, I want to stop and give you both
16 an opportunity to look back to see if that's something
17 that would be owed or not because you may have a
18 disagreement as to that. Do we need to take a break?

19 ATTY. WOLMAN: I've just not been made aware that
20 there are -- that Google Analytics runs on that.

21 THE COURT: Any analytics. So that's what I'm
22 trying to figure out. I'm just trying to figure out
23 do you agree that it was owed or not because if you
24 don't know the answer or you don't agree, I want to
25 take a --

26 ATTY. WOLMAN: Your Honor's broad order would
27 have included that website. I just don't know -- I've

1 not been made aware that there were any documents to
2 produce.

3 THE COURT: Well, you would know, sir, correct?
4 You would know at this point because they would be
5 overdue. If no such documents exist, that's a
6 perfectly fine answer, but that would be the answer.
7 "I don't know" is not full and fair compliance. There
8 were either documents or there are no documents.

9 ATTY. WOLMAN: I understand, your Honor. And we
10 asked our clients to generate or produce whatever was
11 required. We turned over, in fact, originally in June
12 2019 and then reproduced what we knew there to be --
13 what I knew there to be.

14 THE COURT: Attorney Wolman, look at me. I do
15 not want to put you on the spot here, okay. I mean
16 what I say. So I'm not looking to put you on the
17 spot. What I'm trying to figure out, though, because
18 I want to make sure I have an understanding. I just
19 want to know if any -- so I understand you're saying
20 that -- well, actually, now that I'm hearing myself,
21 I'm not sure I know what you're saying. So if you
22 want to take a short break to check, that's fine with
23 me because what I'm trying to figure out were any kind
24 of analytics produced for that Prison Planet TV
25 website?

26 ATTY. WOLMAN: None have been produced, and I'm
27 not aware of any existing.

1 THE COURT: So you're --

2 ATTY. WOLMAN: Maybe -- so that's all I can say
3 about that.

4 THE COURT: So your representation is -- all
5 right. So none were produced. You would be obligated
6 to produce them. None were produced. And your
7 representation is that none exist, to your knowledge?

8 ATTY. WOLMAN: None exist, to my knowledge, your
9 Honor. To my knowledge, personally.

10 THE COURT: Well --

11 ATTY. WOLMAN: I'm a lawyer. We ask our clients
12 for documents. All lawyers do. And the clients then
13 give them to us, whatever they have.

14 THE COURT: Okay.

15 ATTY. WOLMAN: That's how discovery always works.
16 You ask the client for whatever and --

17 THE COURT: All right. Well, then just address,
18 if you would, whether your clients have fully and
19 fairly complied with the discovery request as it
20 relates to any kind of analytics for the Prison Planet
21 TV website. I understand you're saying that you --

22 ATTY. WOLMAN: I'm not a testifying witness, your
23 Honor.

24 THE COURT: Right. So I'm not asking what you
25 personally have. The obligation, of course, rests on
26 the party that the discovery request was directed to.
27 So I'm just trying to figure out if, in your opinion

1 -- are you arguing that they fully and fairly complied
2 with the analytic request as it relates to Prison
3 Planet TV? Are you making that argument?

4 ATTY. WOLMAN: I have no reason to believe that
5 they haven't.

6 THE COURT: And then continue --

7 ATTY. WOLMAN: I must repeat, your Honor, we did
8 offer the plaintiffs the opportunity to access and,
9 you know, explore Google Analytics for themselves.

10 THE COURT: All right. So continue with your
11 argument. And I note when you started out, you
12 briefly touched upon the Flores request and who
13 answered that request. And I know you have more to
14 say about the trial balances, and I know you're going
15 to tell me more about -- I know your position is no
16 sanctions should enter. And you'll address if
17 sanctions were to enter, should they enter against all
18 the defendants or any particular defendants. But one
19 thing for example that is a little confusing and it's
20 along the lines of what Attorney Mattei said. So
21 maybe you could address it. So once I put that order
22 in that you have to file your notice of compliance
23 with the Court so that we had no disagreement as to
24 what compliance was being made, so, for example, I
25 just pulled up your notice of compliance dated
26 November 4th. It's entry number 556. And so it looks
27 to me -- I don't have the deposition notice, but it

1 looks to me like there was a deposition notice for
2 Owen Shroyer, who is a Free Speech Systems, LLC
3 employee and it requested documents. But the document
4 request -- I mean, I don't know. I assume the -- I
5 assume the request for documents went to just Free
6 Speech Systems. I don't know. The notice of
7 compliance to Owen Shroyer as an employee of Free
8 Speech Systems, LLC is signed by all the Jones
9 defendants, Mr. Jones individually and the LLC's. And
10 then if I look at the next document, 557, which is the
11 objections, again, that is filed on behalf of all the
12 defendants. So it looks to me like that -- just using
13 that as an example, because that's a recent one, that
14 the discovery request is to a Free Speech Systems
15 employee, but all the Jones defendants are signing off
16 on the objections and signing off on the notice of
17 compliance. So would you want to address that, as
18 well? What is the Court to do if discovery requests
19 have been filed on behalf of all the defendants and
20 let's just assume for the sake of argument that they
21 were not full and fair compliance.

22 ATTY. WOLMAN: Sure, your Honor.

23 THE COURT: Thank you.

24 ATTY. WOLMAN: On that issue, your Honor's order
25 from the summer where you required both Mr. Pattis and
26 I to sign off on everything necessitated this because
27 arguably I could not then respond simply myself on

1 behalf of Mr. Jones because that would somehow require
2 Mr. Pattis or someone from his firm to also sign off
3 under this Court's order even though they don't
4 represent Mr. Jones individually. So we've certainly
5 taken the position that when we sign something, we
6 have to sign it for everybody based upon this Court's
7 order.

8 However, the requests to Ms. Flores, she was an
9 employee of Free Speech Systems, only an employee of
10 Free Speech Systems. The only party that can compel
11 her to appear was Free Speech Systems. The same with
12 Mr. Shroyer, the same with Mr. Daniels. The only
13 parties that can compel them to appear are Free Speech
14 Systems. And the responses -- or Ms. Flores
15 explicitly said that they were from Free Speech
16 Systems, and the notice of the compliance explicitly
17 states Owen Shroyer as an employee of Free Speech
18 Systems. It identified who the party was that is
19 responsible because the plaintiffs are trying to
20 reverse veil pierce or set forth alterego status
21 without evidence in support of reverse veil piercing
22 or alterego status. I don't want veil piercing to get
23 to Mr. Jones because Free Speech Systems makes an
24 error. Yes, Mr. Jones is the owner of that and
25 managing member, but that doesn't mean the case
26 against him individually should be sanctioned, worthy
27 of sanctions. He is separately a party. One could

1 imagine that the plaintiffs could have filed suit
2 against him separately from Free Speech Systems.
3 Joinder is not mandatory. And so if this were two
4 separate lawsuits, you wouldn't be sanctioning Mr.
5 Jones in one lawsuit for Free Speech Systems' error in
6 another. That wouldn't be happening there, and it
7 shouldn't happen here merely because permissive
8 joinder occurred.

9 And definitely there's nothing to suggest
10 Infowars, LLC, which does nothing, Infowars Health,
11 LLC which collects advertising regarding Youngevity,
12 which there's no evidence that Youngevity was ever
13 advertised during any Sandy Hook broadcast or Prison
14 Planet TV, LLC which collected subscription fees for
15 Prison Planet website -- that's all it did, nothing to
16 do with any particular content -- are worthy of
17 sanctions.

18 And I should also note that the error in the
19 motion regarding Mrs. Clinton, that was an error by
20 counsel, and it wasn't on behalf of all of the
21 defendants either. There were specific defendants
22 identified there. The plaintiffs want to lump them
23 all together, but there is no basis to do so. Neither
24 is there any reason why any significant sanction
25 should issue, your Honor. We've been in compliance.

26 I should also note that although the sanctions
27 terminating the anti-SLAPP motion went to all of our

1 clients, when looking at that in the totality, one
2 should also recall that they were based on discovery
3 responses where three of those LLC's that I mentioned
4 already produced and where Mr. Jones appeared on a
5 Free Speech Systems broadcast and that's it. The
6 other three entities had nothing to do with it. So in
7 the totality, you've got three entities against who
8 really no sanctions should issue at all, unless
9 you're, without evidence, trying to lump them in
10 together.

11 And as to Mr. Jones, he was sanctioned by losing
12 the anti-SLAPP motion, and that's the only thing where
13 he was personally involved there. Everything else is
14 a corporation, working through its accountants,
15 working through personnel trying to produce whatever
16 they have. Mr. Jones can direct employees to comply
17 at the end of the day. The employees have to do what
18 they're supposed to do. And one hopes that they have.
19 You know, if a witness was not going to appear at a
20 deposition, Mr. Jones certainly, if they were noticed,
21 Mr. Jones would terminate their employment. He's
22 threatened to do so at least once in this case for an
23 employee who did not want to appear. But he has made
24 sure that they comply. That's what he can do in
25 controlling the entities. That's what any employer
26 can do, threaten to fire them if they don't do the job
27 or actually do so if they don't or otherwise

1 discipline an employee.

2 But Free Speech Systems did its best job. It
3 doesn't collect these analytics on an ordinary basis.
4 It's not part of its practice. When they request it,
5 produced whatever it was able to do so and has offered
6 an opportunity for the plaintiffs to review. These
7 subsidiary ledgers, its accountant tells them they
8 don't have except as where there were sub-accounts
9 listed or otherwise included, the totality of the
10 information is included within the trial balances and
11 yet -- and the only thing that says that they really
12 do have subsidiary ledgers is because this Court
13 decides to agree with the plaintiffs' nonexpert who
14 said that subsidiary ledgers equal sub-ledgers, equals
15 this general detail in Quick Books. So once that was
16 made clear, it was produced, but the accountant still
17 says, no, it's not something they prepared. No actual
18 ledgers are generally kept, subsidiary ledgers. And
19 then the accountant has produced the trial balances
20 because that's what accountants do. And he went
21 through and took the data that was generated by Quick
22 Books, trial balances had been produced since before
23 Quick Books existed. You collect all the bookkeeping
24 data and you prepare them. It needs to be prepared
25 even by hand. And that's what Mr. Roe did. He
26 prepared the trial balances for the corporation, the
27 one corporation that had any, Free Speech Systems, the

1 one corporation to whom that request was directed,
2 Melinda Flores the employee of Free Speech Systems.
3 So unless the Court is looking to --

4 THE COURT: All right. Let's stand by. I think
5 he lost his connection. We'll stand by.

6 I think I see you're back, Attorney Wolman.
7 You're muted, however. I think he might be frozen.
8 So we'll stand by. He may have to log in again.

9 Mr. Ferraro, maybe you can send him an email and
10 --

11 ATTY. WOLMAN: I had a glitch there. Unless the
12 Court was looking to avoid my client's due process,
13 which I'm sure the Court is not doing, this case needs
14 to be litigated on the merits, which means
15 adjudicating the pending motion to strike. It means
16 testing should any claims survive, having a jury
17 decide whether or not liability exists because there's
18 been no prejudice to plaintiffs throughout this. They
19 haven't pointed to a single thing that would show
20 anything that would overcome actual malice, that would
21 tend to overcome. There's nothing in these trial
22 balances that would do so. Nothing in these so-called
23 subsidiary ledgers that would do so. Nothing in these
24 analytics that would do so. And certainly not an
25 error on a motion with respect to unintentionally
26 revealing information marked confidential at that
27 time.

1 So we don't see any basis for the extreme
2 sanction of default. If further discovery is
3 warranted, the Court has already said they can
4 redepote Ms. Flores. If they need to depose Mr. Roe,
5 we can address that, but they've not actually suffered
6 any prejudice and the Court should not order a
7 windfall to the plaintiffs merely because Mr. Roe did
8 accounting the way accountants do accounting.

9 THE COURT: Thank you, Attorney Wolman. One
10 thing I wanted to point out to you and to all
11 counsel -- and there is Attorney Atkinson. I lost his
12 picture for a second. I see you.

13 The order that I entered on July 21st with regard
14 to signing of pleadings, and I'll just read it. It's
15 only a sentence. It says, quote: Any pleading,
16 motion, request or any other filing filed with the
17 Court by a party must be signed by all counsel
18 representing that party, end quote.

19 So that simply would require, for example, if
20 Free Speech Systems was filing a protective order and
21 Free Speech Systems was represented by you, Attorney
22 Wolman, and by your office, Attorney Atkinson, then
23 moving forward from July 21st, both counsel would be
24 required to sign off on the pleading. I did that to
25 avoid any gamesmanship. I saw what was occurring in
26 some of the pleadings and then at the deposition
27 procedure. So I wanted to have something very

1 consistent. There's nothing in that order that
2 suggests that all the parties need to sign off on
3 everything. So I just wanted to --

4 ATTY. WOLMAN: (Indiscernible) I'm being
5 particular.

6 THE COURT: I just wanted the record to reflect
7 that.

8 So, Attorney Mattei, if you wanted to respond,
9 but I would also like to hear your response on the
10 Prison Planet TV analytics. I assume it's your
11 position that the request was made. That was my
12 recollection. It doesn't appear as if anything has
13 been produced by Free Speech Systems, I suppose, or
14 anyone on behalf of any analytics from Prison Planet
15 TV. You've heard Attorney Wolman's indication that he
16 doesn't believe that there is anything to produce. So
17 if you could address that and whatever else you wanted
18 to respond to.

19 ATTY. MATTEI: Yes, thank you, your Honor.

20 Let me just first address the comment directed
21 towards me that he made at the outset with respect to
22 how the Jones defendants have responded to discovery
23 here. In their response to our first request for
24 production, production was made on behalf of all
25 defendants, not distinguished between them, not
26 differentiated between them. In response to our
27 request for admission, responses were made on behalf

1 of all Jones defendants, no differentiation. So when
2 I was describing -- and as you indicated, your Honor,
3 in the pleadings, they've presented themselves as a
4 unit. So when I was describing the overall course of
5 discovery conduct here, that's what I was referring
6 to.

7 With respect to the analytics, I was very
8 surprised to hear Attorney Wolman say that he's not
9 aware of whether any such analytics exist for the
10 Prison Planet website and Infowars Health website
11 because in their own pleadings they've acknowledged
12 that such analytics do exist. So if you look at
13 docket number 458, they included an e-mail --

14 THE COURT: Attorney Mattei, just give everyone a
15 minute to get there. So 458.

16 ATTY. MATTEI: Docket number --

17 THE COURT: Just hold off so everyone can get
18 there. Are you all set, Attorney Wolman? Yes?
19 Attorney Wolman, do you need a minute to pull up the
20 document? You're muted.

21 ATTY. WOLMAN: No. Apparently I was muted, and I
22 said yes, your Honor.

23 THE COURT: Okay. Thank you.

24 Go ahead, Attorney Mattei.

25 ATTY. MATTEI: This is their opposition to our
26 motion for sanctions based on web and social media
27 data and analytics. They include as an exhibit to

1 that pleading an email purportedly sent from Michael
2 Zimmerman, who at the time was their IT manager, to
3 defense counsel in which he acknowledges that he had
4 not yet exported analytics for the other websites and
5 that he had only exported analytics for Infowars dot
6 com. Then in an effort to stave off the production of
7 Google Analytics, they included in one of their
8 pleadings which we reproduced in our memorandum in
9 support of default a 35-page printout of what they
10 claimed to be Google Analytics. You referenced this,
11 your Honor, in your order dated June 10, 2019 in which
12 you concluded that the 35-page printout was not -- was
13 simply not full and fair compliance, but in that
14 printout there's clear reference to analytics for
15 Infowars Health and Prison Planet TV, none of which
16 have ever been produced. This is just for Google
17 Analytics. This leaves aside the other analytics
18 platforms they use. So it's simply not accurate to
19 say that those analytics don't exist. By their own
20 admission they do. They've just never been produced.

21 The other point I want to make, your Honor, has
22 to do with Ms. Flores. Ms. Flores, not Mr. Roe, was
23 the one directed to produce trial balances. Ms.
24 Flores did generate trial balances. The Jones
25 defendants just elected not to produce them. Instead,
26 produced fabricated documents created by Mr. Roe. So
27 Mr. Wolman in his argument has repeatedly disparaged

1 Ms. Flores. I think in his last argument he described
2 her as some bookkeeper and has elevated Mr. Roe. The
3 reality is that Free Speech Systems through its
4 managing agent, Ms. Flores, was required to produce
5 its trial balances. That is the evidence in the case.
6 And they declined to do that and instead created other
7 evidence which we've shown. And Mr. Wolman did not
8 address at all the discrepancies between the
9 subsidiary ledgers and Mr. Roe's trial balances, the
10 deleted accounts. But that's all laid out chapter and
11 verse in our pleadings. I don't need to do that here.
12 But it was Mrs. Flores', as the managing agent of Free
13 Speech Systems, obligation to produce trial balances.
14 She appears to have attempted to do so. They simply
15 declined to produce them. That's all I have, Judge.

16 THE COURT: Attorney Wolman, I'd like to give you
17 an opportunity to respond. It looks like you would
18 actually like to take advantage of that.

19 ATTY. WOLMAN: You know, it's an interesting
20 quandary then because in theory, what Ms. Flores
21 should have responded was, I have no such responsive
22 documents, that she did not have the trial balances
23 because what Quick Books could produce is not the
24 trial balances. What Quick Books data then reviewed
25 by an accountant is and then made to accounting
26 standards, that's trial balances. So let's be clear
27 then. The proper response for Ms. Flores should be no

1 such responsive documents were in her possession,
2 custody or control because she didn't have trial
3 balances. She had Quick Books data. So that Quick
4 Books data was given to an accountant and used to
5 generate for Free Speech Systems, (indiscernible)
6 Court's order the trial balances. So that's exactly
7 how it should be. So let's not say that she had trial
8 balances because there's no evidence of that. What
9 they wanted was Quick Books data that was not actual
10 trial balances.

11 Again, as to the other websites, I'm not aware of
12 again analytics existing. That's all I can say on
13 that.

14 ATTY. MATTEI: Your Honor, Ms. Flores testified
15 --

16 THE COURT: I think I'm going to end the argument
17 at this point, and we'll take a five minute quick
18 break, not the morning recess. Just a five-minute
19 break, and we'll be back at 10:45.

20 ATTY. WOLMAN: I would just point out, Mr. Cerame
21 had something to say.

22 THE COURT: Not on this motion.

23 ATTY. CERAME: It's a nonsubstantial point as to
24 what "all defendants" means.

25 THE COURT: No, thank you.

26 (A recess was taken, after which court resumed as
27 follows:)

1 THE COURT: All right. So I will order a copy of
2 the transcript of the following ruling, and I will
3 sign it and I will place it in the court file as my
4 decision for the purposes of any appeal.

5 So I'll first address the Clinton deposition
6 issue and the conduct of July 1, 2021. In the July
7 19, 2021 court filing by the defendants Infowars, LLC,
8 Free Speech Systems, LLC, Infowars Health, LLC and
9 Prison Planet, LLC, they described how in the motion
10 to depose Hillary Clinton, testimony designated by the
11 plaintiffs as highly confidential was filed in the
12 Clinton deposition motion. They explained that this
13 was done because in their opinion, the plaintiffs did
14 not have a good-faith basis to designate the
15 deposition as highly confidential before the
16 deposition had commenced, despite the fact that the
17 Jones defendants had previously done so themselves.
18 And it is not lost on the Court that the highly
19 confidential information was improperly filed in the
20 middle of the first deposition of a plaintiff.

21 The July 19, 2021 filing is in sharp contrast to
22 the Jones defendants' position at the October 20, 2021
23 sanctions hearing where the Court addressed what, if
24 any, sanctions should enter. At the October 20
25 hearing, the Jones defendants claim they could publish
26 confidential information as long as they did not
27 reveal the name of the witness. That is, they argued

1 unconvincingly that they didn't understand the very
2 protective order that they themselves drafted and
3 asked the Court to approve as a Court order, which the
4 Court did.

5 The position of the Jones defendants at the
6 October 20, 2021 sanctions hearing did nothing but
7 reinforce the Court's August 5th, 2021 order and
8 findings that the cavalier actions on July 1st, 2021
9 constituted willful misconduct and violated the
10 Court's clear and unambiguous protective order.

11 The history of the attorneys who have appeared
12 for the defendants, Alex Jones, Infowars, LLC, Free
13 Speech Systems, LLC, Infowars Health, LLC and Prison
14 Planet TV, LLC is a convoluted one, even putting aside
15 the motions to withdraw appearance, the claims of
16 conflict of interest and the motions for stay advanced
17 by these five defendants.

18 As the record reflects, on June 28, 2018,
19 Attorney Wolman appeared for all five of the Jones
20 defendants. Eight months later, on March 1st, 2019,
21 Attorney Wolman is out of the case and Pattis & Smith
22 filed an in-lieu-of appearance for all five
23 defendants. On February 24, 2020, Attorney Latonica
24 also appeared for all five defendants. Five months
25 later on July 7, 2020, Attorney Latonica and Pattis &
26 Smith is now out of the case and Attorney Wolman is
27 back in the case for all five defendants. Then on

1 June 28, 2020, Pattis and Smith is back in the case,
2 but now only appears for the four LLC defendants.

3 But what is perhaps more significant is the
4 transparent attempt to cloud the issues by Pattis &
5 Smith, for example, by listing the names of only three
6 of the four clients they represent when filing the
7 motion to take the deposition of Hillary Clinton and
8 then listing all four clients in the July 19, 2021
9 filing relating to the issue. And by Attorney Wolman
10 who then argued in his October 20, 2021 file that
11 Infowars, LLC had no involvement in the motion for
12 commission because their lawyer did not list their
13 name on the motion. It is simply improper under our
14 rules of practice for an attorney to do so.

15 Turning to the issue of the subsidiary ledgers.
16 The five Jones defendants on November 6, 2020 filed
17 with the Court their discovery objections relating to
18 the deposition of Free Speech Systems' accounting
19 manager and current employee, Melinda Flores. In
20 response to the plaintiff's request for subsidiary
21 ledgers, the Jones defendants objected on the basis
22 that the production of the subsidiary ledgers was
23 oppressive, unduly burdensome, disproportionate,
24 harassing and that it will require digging through
25 eight years of accounting. No objection was raised as
26 to the term "subsidiary ledger", although parties
27 frequently will object to a discovery request if they

1 consider it vague or confusing.

2 On April 29, 2021, the Court overruled the
3 objection. On May 6, 2021, the Court ordered the
4 deposition of Flores to take place on June 4, 2021 and
5 ordered the documents to be produced by the close of
6 business on May 14, 2021 stating that failure to
7 comply may result in sanctions.

8 On May 14, 2021, the five Jones defendants
9 responded to the document request and Court order and
10 stating that the subsidiary ledgers were incorporated
11 into the trial balances and had been produced.

12 At her June 4, 2021 deposition, Flores, the
13 accounting manager, testified that subsidiary ledgers
14 or detail was easily accessible and available to her.
15 She testified that it would show the sources of
16 advertising income and she testified repeatedly that
17 Free Speech Systems maintained subsidiary ledger
18 information. Flores did not believe she was obligated
19 to produce the subsidiary ledgers, and it is unclear
20 as to whether they have been produced.

21 It was impossible to reconcile the expert hired
22 by Free Speech Systems with the November 6, 2020
23 objections filed with the Court and with Flores'
24 deposition testimony. While the Jones defendants in
25 their May 5th, 2021 motion state that Flores would be
26 the best employee to identify and produce the
27 requested documents and further state that Flores

1 would be compelled by Free Speech Systems to produce
2 the requested documents at the deposition, the
3 defendants hired expert, Mr. Roe, said that Flores was
4 wrong and that Free Speech Systems doesn't use or have
5 subsidiary ledgers.

6 The Court, in its August 6, 2021 order, found
7 that the subsidiary ledger information was easily
8 accessible by Flores by clicking on each general
9 account, that, despite the Court orders and although
10 the information exists and is maintained by Free
11 Speech Systems and was required by the Court order to
12 be produced, it had not been produced. And, again, it
13 is still unclear as to what documents have been
14 produced.

15 The Court rejected Roe's statements in his
16 affidavit as not credible in light of the
17 circumstances. The Court found that the plaintiffs
18 were prejudiced in their ability to prosecute their
19 claims and conduct further meaningful depositions and
20 that sanctions would be addressed at a future hearing.

21 At the October, 2021 sanctions hearing, the Court
22 addressed whether sanctions should enter. The Court
23 finds that sanctions are, in fact, appropriate in
24 light of the defendant's failure to fully and fairly
25 comply with the plaintiff's discovery request and the
26 Court's orders of April 29, 2021, May 6, 2021 and
27 August 6, 2021.

1 Turning to the trial balances. In addition to
2 objecting to the deposition of Flores, the Jones
3 defendants, as I mentioned, filed discovery objections
4 to the request for production directed to Flores. The
5 Court ruled in favor of the defendants on one
6 production request and ruled in favor of the
7 plaintiffs with respect to others.

8 In addition to the subsidiary ledgers, the Court
9 ordered production of the trial balances. Flores had
10 run trial balances in the past unrelated to this
11 action. Flores testified at her June 4, 2021
12 deposition that she personally accessed Quick Books
13 and selected the option to generate trial balances for
14 2012 to 2019. She testified that she ran the reports
15 and printed them out and believed that the reports
16 were produced. Her testimony the reports that she ran
17 were produced was left uncorrected by counsel at the
18 deposition.

19 The reports were not produced by the
20 Court-ordered deadline of May 14, 2021. They were not
21 produced at her June 4, 2021 deposition, and they have
22 not been produced to date, despite their obligation to
23 do so.

24 While the Jones defendants, in their May 5, 2021
25 Court filing, emphasized that Flores would be the best
26 employee to identify and produce the requested
27 documents which would include the trial balances and

1 that Flores would be compelled by Free Speech Systems
2 to produce the documents at her deposition, not only
3 were the reports not produced, but the Jones
4 defendants in their October 7, 2021 filing now claim
5 that Flores, a mere bookkeeper, provided flawed
6 information to the defendants that the defendants,
7 through Roe, had to correct. And the Court rejects
8 that position.

9 The Jones defendants argue that Roe combined some
10 accounts that were not used consistently and
11 consolidated some general accounts because various
12 transactions all involved the same account and those
13 records created by the Jones defendants' outside
14 accountant were the records that were produced. But
15 these records that removed accounts and consolidated
16 accounts altered the information in the reports that
17 their own accounting manager had produced, and they
18 contain trial balances that did not balance. These
19 sanitized, inaccurate records created by Roe were
20 simply not responsive to the plaintiff's request or to
21 the Court's order.

22 Turning to the analytics. The date for the
23 parties to exchange written discovery has passed after
24 numerous extensions by the Court. On May 14, 2021,
25 the Court ordered that the defendants were obligated
26 to fully and fairly comply with the plaintiff's
27 earlier request for disclosure and production.

1 On June 1, 2021, the defendants filed an
2 emergency motion for protective order apparently
3 seeking protection from the Court's own order where
4 the defendants again attempted to argue the scope of
5 appropriate discovery.

6 The Court, on June 2, 2021, declined to do so and
7 extended the deadline for final compliance to June 28,
8 2021 ordering the defendants to begin to comply
9 immediately on a rolling basis. In its June 2nd
10 order, the Court warned that failure to comply would
11 result in sanctions including default.

12 With respect to analytics, including Google
13 Analytics and social media Analytics, the defendants
14 on May 7, 2019 represented that they had provided all
15 the analytics that they had. They stated with respect
16 to Google Analytics that they had access to Google
17 Analytics reports, but did not regularly use them. As
18 the Court previously set forth in its September 30,
19 2021 order, the defendants also claim that on June 17,
20 2019, they informally emailed zip files containing
21 Google Analytics reports to the plaintiffs, but not
22 the codefendants, an email the plaintiffs state they
23 did not receive and that the Court found would not
24 have been in compliance with our rules of practice.

25 On June 28, 2021, the Jones defendants filed a
26 notice of compliance stating that complete final
27 supplemental compliance was made by the defendants,

1 Alex Jones and Free Speech Systems, LLC and that
2 Infowars, LLC, Infowars Health, LLC and Prison Planet,
3 LLC, quote: Had previously produced all documents
4 required to be produced, end quote, representing that
5 with respect to the Google Analytics documents, Free
6 Speech Systems, LLC could not export the dataset and
7 that the only way they could comply was through the
8 sandbox approach.

9 Then on August 8, 2021, the Jones defendants for
10 the first time formally produced Excel spreadsheets
11 limited to Google Analytics apparently for Infowars
12 dot com and not for any of the other websites such as
13 Prison Planet TV or Infowars Health. Importantly, the
14 Jones defendants to date have still not produced any
15 analytics data from any other platform such as Alexa,
16 Comcast or Criteo.

17 The Jones defendants production of the social
18 media analytics has similarly been insubstantial and
19 similarly has fallen far short both procedurally and
20 substantively, despite prior representations by the
21 Jones defendants that they had produced the social
22 media analytics and despite the May 25, 2021
23 deposition testimony of Louis Certucci, Free Speech
24 Systems social media manager for nearly a decade, that
25 there were no such documents.

26 At the June 28, 2021 deposition of Free Speech
27 Systems corporate designee Zimmerman, Mr. Zimmerman

1 testified that, in fact, he had obtained some
2 responsive documents from Certucci which were then
3 loaded into a deposition chat room by counsel for the
4 Jones defendants. It appears that these documents
5 were minimal summaries or reports for Facebook and
6 Twitter, but not for other platforms used by the
7 defendants such as You Tube.

8 Any claim of the defendants that the failure to
9 produce these documents was inadvertent falls flat as
10 there was no evidence submitted to the Court that the
11 defendants had a reasonable procedure in place to
12 compile responsive materials within their power,
13 possession or knowledge.

14 Months later, on October 8, 2021, the Jones
15 defendants formally produced six documents for the
16 spring of 2017 for Facebook containing similar
17 information to the Zimmerman chat room documents, but
18 not included in the chat room documents and screen
19 shots of posts by Free Speech Systems to an
20 unidentified social media account with no analytics.

21 The defendants represented that they had produced
22 all the analytics when they had not done so. They
23 represented in court filings that they did not rely on
24 social media analytics and this, too, is false.

25 I'm going to need to take a thirty second water
26 break, please.

27 (A short break in the proceedings occurred.)

1 This response was false. The plaintiffs in
2 support of their motion for sanctions on the analytics
3 issue attached as exhibit D, an email dated December
4 15, 2014 between former Free Speech Systems business
5 manager Timothy Fruge and current Free Speech Systems
6 employee Buckley Hamman. Fruge attaches annotated
7 charts of detailed analytics concerning Jones' 2014
8 social media audience including gender demographics
9 engagement and social media sites that refer people to
10 Infowars dot com. As pointed out by the plaintiffs,
11 Fruge's annotations are even more telling than the
12 charts themselves and totally contradict the Jones
13 defendants misrepresentations to the Court that,
14 quote: There is no evidence to suggest that Mr. Jones
15 or Free Speech Systems ever used these analytics to
16 drive content, end quote.

17 The next image on the document shows key
18 indicators on Twitter. Those are engagement and
19 influence. Again, this is reading from Fruge's notes.
20 Again, the next image shows the key indicators on
21 Twitter. Those are engagement and influence. Notice
22 our influence is great and our engagement is low. I
23 bring this up -- again these are Fruge's notes --
24 because we should try and raise our engagement with
25 our audience. Engagement is how well we are
26 communicating and interacting with our audience. The
27 higher our engagement, the more valuable our audience

1 will become to our business. And that is the end of
2 Fruge's notes.

3 I would note that regardless of this reliance on
4 social media analytics, the concept is simple. The
5 defendants were ordered to produce the documents and
6 our law requires them to produce information within
7 their knowledge, possession or power. Discovery is
8 not supposed to be a guessing game. What the Jones
9 defendants have produced by way of analytics is not
10 even remotely full and fair compliance required under
11 our rules.

12 The Court finds that the Jones defendants have
13 withheld analytics and information that is critical to
14 the plaintiff's ability to conduct meaningful
15 discovery and to prosecute their claims. This callous
16 disregard of their obligations to fully and fairly
17 comply with discovery and Court orders on its own
18 merits a default against the Jones defendants.

19 Neither the Court nor the parties can expect
20 perfection when it comes to the discovery process.
21 What is required, however, and what all parties are
22 entitled to is fundamental fairness that the other
23 side produces that information which is within their
24 knowledge, possession and power and that the other
25 side meet its continuing duty to disclose additional
26 or new material and amend prior compliance when it is
27 incorrect.

1 Here the Jones defendants were not just careless.
2 Their failure to produce critical documents, their
3 disregard for the discovery process and procedure and
4 for Court orders is a pattern of obstructive conduct
5 that interferes with the ability of the plaintiffs to
6 conduct meaningful discovery and prevents the
7 plaintiffs from properly prosecuting their claims.

8 The Court held off on scheduling this sanctions
9 hearing in the hopes that many of these problems would
10 be corrected and that the Jones defendants would
11 ultimately comply with their discovery obligations and
12 numerous Court orders, and they have not.

13 In addressing the sanctions that should enter
14 here, the Court is not punishing the defendants. The
15 Court also recognizes that a sanction of default is
16 one of last resort. This Court previously sanctioned
17 the defendants not by entering a default, but by a
18 lesser sanction, the preclusion of the defendant's
19 special motions to dismiss. At this point entering
20 other lesser sanctions such as monetary sanctions, the
21 preclusion of evidence or the establishment of facts
22 is inadequate given the scope and extent of the
23 discovery material that the defendants have failed to
24 produce.

25 As pointed out by the plaintiffs, they are
26 attempting to conduct discovery on what the defendants
27 publish and the defendants' revenue. And the failure

1 of the defendants to produce the analytics impacts the
2 ability of the plaintiffs to address what is published
3 and the defendants failure to produce the financial
4 records such as sub-ledgers and trial balances affects
5 the ability of the plaintiffs to address the
6 defendants' revenue. The prejudice suffered by the
7 plaintiffs who had the right to conduct appropriate,
8 meaningful discovery so they could prosecute their
9 claims again, was caused by the Jones defendants
10 willful noncompliance, that is, the Jones defendants
11 failure to produce critical material information that
12 the plaintiff needed to prove their claims.

13 For these reasons, the Court is entering a
14 default against the defendants Alex Jones, Infowars,
15 LLC, Free Speech Systems, LLC, Infowars Health, LLC
16 and Prison Planet TV, LLC. The case will proceed as a
17 hearing in damages as to the defendants. The Court
18 notes Mr. Jones is sole controlling authority of all
19 the defendants, and that the defendants filed motions
20 and signed off on their discovery issues jointly. And
21 all the defendants have failed to fully and fairly
22 comply with their discovery obligations.

23 As I said, I will order a copy of the transcript.
24 I will sign it and I will file it in the Court as the
25 Court's order.

26 So we're done for today. And we will have our
27 next status conference this Wednesday.

We're adjourned.

1 XO6 UWY CV18-6046436-S : SUPERIOR COURT
 2 ERICA LAFFERTY, ET AL : JUDICIAL DISTRICT OF WATERBURY
 3 V : AT WATERBURY, CONNECTICUT
 4 ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

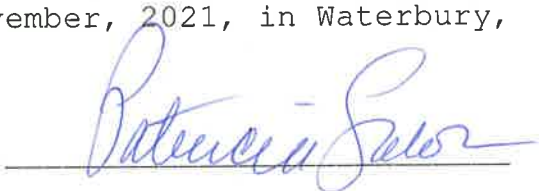
5 -----
 6 XO6 UWY CV18-6046437-S : SUPERIOR COURT
 7 WILLIAM SHERLACH, ET AL : JUDICIAL DISTRICT OF WATERBURY
 8 V : AT WATERBURY, CONNECTICUT
 9 ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

10 -----
 11 XO6 UWY CV18-6046438-S : SUPERIOR COURT
 12 WILLIAM SHERLACH, ET AL : JUDICIAL DISTRICT OF WATERBURY
 13 V : AT WATERBURY, CONNECTICUT
 14 ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

15
 16 C E R T I F I C A T I O N

17 I hereby certify the foregoing pages are a true and
 18 correct transcription of the audio recording of the
 19 above-referenced case, heard in the Superior Court, Judicial
 20 District of Waterbury, at Waterbury, Connecticut, before the
 21 Honorable Barbara N. Bellis, Judge, on the 15th day of
 22 November, 2021.

23 Dated this 15th day of November, 2021, in Waterbury,
 24 Connecticut.

25 
 26 Patricia Sabol

27 Court Monitor